



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0152]

RIN 1625-AA00; 1625-AA87

Safety and Security Zones, Jacksonville Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to modify several aspects of the safety and security zones within the Sector Jacksonville Captain of the Port Zone. This action is necessary to consolidate, clarify, and otherwise modify safety and security zone regulations to eliminate unnecessary regulations and better meet the safety and security needs of the Ports of Jacksonville, Fernandina, and Canaveral. This action would modify existing safety and security zones; establish safety zones governing port closures in the event of a natural and other disasters; and remove safety and security zones.

DATES: Comments and related material must be received by the Coast Guard on or before July 9, 2014.

A public meeting will be held on June 23, 2014 at 10 a.m. at USCG Sector Jacksonville and on June 25, 2014 at 10:30 a.m.

at Inter-Agency Maritime Operations Center in Cape Canaveral, FL.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Commander Alisa Praskovich, Sector Jacksonville Prevention Department, Coast Guard; telephone (904) 564-7549, e-mail Alisa.L.Praskovich@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address,

or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0152] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0152) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

A public meeting will be held on June 23, 2014 at 10 a.m. at USCG Sector Jacksonville and on June 25, 2014 at 10:30 a.m. at Inter-Agency Maritime Operations Center in Cape Canaveral, FL. We plan to post the minutes of the meetings in the docket. For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the FOR FURTHER INFORMATION CONTACT section, above.

B. Regulatory History and Information

In 1994, the Coast Guard published a safety zone around firework barges between the Hart and Acosta Bridges within the Port of Jacksonville. As of 2008, there are 22 special local regulations listed under 33 CFR 100.701, which establish a 500

yard regulated area around various barges for firework display events. This regulatory change will revise the current regulations to add safety zone regulations regarding natural and other disasters port closures, as well as safety zones for all fire work displays.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of these regulations are to ensure the safety of life on navigable waters of the United States through the addition of regulations regarding port closures in the event of natural and other disasters and safety zones for firework barges.

D. Discussion of Proposed Rule

The Coast proposes to make the following regulatory changes: 1) The disestablishment of the existing Safety/Security Zone: St. Johns River, Jacksonville, FL located in 33 CFR 165.720, 2) the creation of a new Safety Zone; Natural and Other Disasters in Ports of Jacksonville, Fernandina, and Canaveral, Florida to be located in 33 CFR 165.720, 3) and the addition of

a new safety zone entitled "Safety Zone: St. Johns River, Jacksonville, FL" to be located in 33 CFR 165.723.

The existing Safety/Security Zone: St. Johns River, Jacksonville, FL (33 CFR 165.721) establishes safety and security zones around the waters of Blount Island, Jacksonville, FL under specified conditions. The fundamental reason for this safety/security zone still exists, however the regulation is redundant in nature. Under the authority of the Army Corps of Engineers, restricted areas were subsequently established in 2008. For further details, see Blount Island Command and Marine Corps Support Facility - Blount Island; Jacksonville, Florida restricted areas (33 CFR 334.515).

The proposed new safety zone, entitled "Safety Zone; Natural and Other Disasters in Ports of Jacksonville, Fernandina, and Canaveral, Florida" (33 CFR 165.720) would be added to provide the legal jurisdiction to close ports affected by natural and other disasters. In the past, temporary regulations regarding port closures have been published after natural and other disasters; however, publishing this notice in a permanent regulation provides better advance notice to the public regarding when port closures should be expected to occur, and would only require publication of a Notice of Enforcement during the storm itself, increasing efficiency and reducing the workload to the Coast Guard. There will be no change in the

manner in which the public is notified by the Coast Guard of a port closure.

The proposed new safety zone, entitled "Safety Zone: St. Johns River, Jacksonville, FL" (33 CFR 165.723) would establish a safety zone around fireworks barges only between the Hart and Acosta Bridges. An additional regulation to encompass the Jacksonville Captain of the Port Zone will allow for a safety zone to be established around certain vessels and firework barges that pose a higher risk of injury to people or property without necessitating publication of a Temporary Final Rule for each individual event, which are often done with minimal notice to the public.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order

13563. The Office of Management and Budget has not reviewed it under those Orders.

This regulation is not significant regulatory action because most of the proposed regulations already exist in some form; such as natural and other disasters safety zones as a temporary final rule for each individual natural or other disasters and special local regulations for firework displays. The regulations that are being added are not expected to have a significant regulatory action due to the infrequency of use for the safety zones around firework barges. The removal of the safety and security zone for Blount Island would have no effect as the Restricted Area set in place by the Army Corps of Engineers will remain in effect.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

For the reasons discussed in the Regulatory Planning and Review section above, the proposed rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C.

3501-3520.) .

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the

distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves disestablishing of a safety and security zone, addition of port closures that would be otherwise published as a Temporary Final Rule, and addition of a safety zone to include all firework barge displays within the Jacksonville Captain of the Port Zone. This rule is categorically excluded from further review under paragraph 34(g)

of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.720 to read as follows:

§ 165.720 Safety Zone; Natural and Other Disasters in Ports of Jacksonville, Fernandina, and Canaveral, Florida.

(a) Regulated Areas. The following areas are established as safety zones during the specified conditions:

(1) Fernandina, FL. All waters within the Cumberland Sound

and Amelia River encompassed within an imaginary line connecting the following locations: starting at the demarcation line drawn across the seaward extremity of the St. Marys River Entrance Jetties; thence following the shoreline north to Stafford Island; thence north to Point 1 in position 30°50'00"N, 81°29'10"W; thence west to Point 2 in position 30°50'00"N, 81°30'47"W; thence southwest to Kings Bay in position 30°48'42"N, 81°3'27"W; thence south following the shoreline south to point 3 in position 30°40'30"N, 81°28'38"W; thence southwest to R "18" at Point 4 30°39'57"N, 81°29'04"W; thence southeast to Point 5 30°39'48"N, 81°28'57"W; thence following the shoreline northeast back to origin. All coordinates are North American Datum 1983.

(2) Jacksonville, FL. All waters within the Port of Jacksonville, FL encompassed within following locations: starting at the demarcation line drawn across the seaward extremity of the St. Johns River Entrance Jetties, thence following the northern riverbank west to the Sister's Creek Bridge, thence following the riverbank west to the Interstate 95 Trout River Bridge, thence following the riverbank south to the Henry H Buckman Bridge, thence following the eastern riverbank back to origin. All coordinates are North American Datum 1983.

(3) Canaveral, FL. All waters within the Canaveral Barge Canal in Port Canaveral, FL encompassed within the following

locations: starting at the demarcation line drawn across the seaward extremity of the Port Canaveral Entrance Channel Jetties, thence following the northern shoreline west to the SR401 Bridge, thence following the southern shoreline back to origin. All coordinates are North American Datum 1983.

(b) Definitions.

(1) *Designated representative.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(2) *Hurricane Port Condition YANKEE.* Set when weather advisories indicate that sustained Gale Force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours.

(3) *Hurricane Port Condition ZULU.* Set when weather advisories indicate that sustained Gale Force winds from a Tropical or hurricane force storm are predicted to make landfall at the port within 12 hours.

(c) Regulations.

(1) *Hurricane Port Condition YANKEE.* All commercial, oceangoing vessels and barges over 500GT are prohibited from entering in any of the 3 regulated areas designated as being in

Port Condition YANKEE within the COTP Zone Jacksonville; within 24 hours of anticipated landfall of gale force winds (39 mph) from tropical or hurricane force storm; or upon the Coast Guard setting Port Condition YANKEE for inbound ocean going commercial vessel traffic over 500GT. Oceangoing commercial vessel traffic outbound will be authorized to transit through the regulated areas until Port Condition ZULU. Additionally, in the Port of Canaveral, no vessel, regardless of size or service, will be allowed to transit through the Port Canaveral Barge Canal upon the setting of Port Condition YANKEE.

(2) *Hurricane Port Condition ZULU.* All commercial, oceangoing vessels and barges over 500GT are prohibited from transiting or remaining in any of the 3 regulated areas designated as being in Port Condition ZULU within COTP Zone Jacksonville; within 12 hours of anticipated landfall of a tropical storm or hurricane; or upon the Coast Guard setting Port Condition ZULU, unless written permission is obtained from the Captain of the Port. All ship-to-shore cargo operations must cease 6 hours prior to setting Port Condition Zulu.

(3) *Emergency Closure for Other Disasters.* Any natural or other disasters that are anticipated to effect the COTP Jacksonville AOR will result in the prohibition of commercial vessel traffic transiting or remaining in any of the 3 regulated areas predicted to be effected as designated by the COTP

Jacksonville.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain in the regulated area may contact the Captain of the Port Jacksonville via telephone at (904)-564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain in the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(5) Coast Guard Sector Jacksonville will attempt to notify the maritime community of periods during which these safety zones will be in effect via Broadcast Notice to Mariners or by on-scene designated representatives.

3. Add § 165.723 to read as follows:

§ 165.723 Safety Zone; Firework Displays in Captain of the Port Zone Jacksonville, Florida.

(a) Regulated Area. The following area is established as a safety zone during the specified conditions: All waters within the Jacksonville COTP Zone within a 500 yard radius of a firework barge or barges during the storage, preparation, and launching of fireworks. The Coast Guard realizes that some large scale events, such as those with many participants or

spectators, or those that could severely restrict navigation or pose a significant hazard, may still require separate special local regulations or safety zones that address the specific peculiarities of the event. In those situations, the Coast Guard will create special local regulations or safety zones specifically for the event, and those regulations will supersede the proposed regulations in this rule.

(b) Definition. *Designated Representative.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) Regulations.

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Coast Guard Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain in the regulated area may contact the Captain of the Port Jacksonville via telephone at (904)-564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter,

transit through, anchor in, or remain in the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners or by on-scene designated representatives.

(4) This regulation does not apply to authorized law enforcement agencies operating within the regulated area.

Dated: May 29, 2014.

L. A. ALLEN
Commander, U.S. Coast Guard
Acting Captain of the Port Jacksonville

[FR Doc. 2014-14176 Filed 06/17/2014 at 8:45 am; Publication Date: 06/18/2014]